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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,387	02/27/2002	Hideaki Sakai	219028US0CONT	5716

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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/083,387Applicant(s)
Sakai et al.Examiner
Lien TranArt Unit
1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec. 30, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

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1. Claims 18 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 is vague and indefinite; it is not clear what applicant is aiming to claim. If the noodles are already fried instant noodles, then how can they be udon noodles or soba noodles or ramen noodles or pasta.

In claim 21, the language “ very slow tendency or substantially slow tendency” is indefinite because it is not known what will constitute very slow tendency or substantially slow tendency.

The language is relative; the scope of such language can not be determined.

2. Claims 1-7, 11-14 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene et al in view of Gotoh et al.

Greene et al disclose a method of preparing fried noodles. The method comprises the steps of preparing a dough, passing the dough through one or more sets of roller to configure the dough into a sheet, cutting the sheet into strips, steaming the strips, molding the steamed strips into cake formation and frying the caked noodle. The noodles are made of wheat flour and other ingredients such as Kansui solution, gum, maltodextrin etc. are added. The noodles are fried at a temperature of 125-160 degree C for a time of 15-70 seconds. (See columns 2-5 and example 1).

Greene et al do not disclose frying the noodles in the oil having the characteristics of claims 1-7, 19-21, the laminating step of claim 16 and the types of noodle in claim 18.

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Gotoh et al edible oils which contain 1,3-diglycerides in an amount of at least 40%, preferably at least 45% and more preferably at least 50%. The oil is substitutable for conventional cooking oil. The oil inhibits the increase of blood triglyceride, is little accumulated in the body and is excellent in storage stability and flavor. The number of carbon atoms of the fatty acid components constituting the diglycerides is 12-24. (See columns 2-3)

It would have been obvious to one skilled in the art to fry the Greene et al noodles in the oil disclosed by Gotoh et al to obtain the benefits disclosed by Gotoh because Gotoh et al disclose the oil is substitutable for conventional cooking oil. The Gotoh et al oil has the same properties as the claimed oil. Thus, when the noodles are fried in the Gotoh et al, they will have the properties cited in claims 1 and 21 because such properties are obtained by frying the noodles in the oil as claimed and the oil disclosed by Gotoh et al is the same as claimed. It would also have been obvious to laminate the dough depending on the thickness desired in the dough sheet; laminating, rolling, sheeting and slitting in noodle strands are all conventional steps in making instant fried noodles as recognized by applicant in the specification. It would have been obvious to use any conventional method to make the noodle strips. Claim 18 is vague and indefinite; however, for the art rejection, it is interpreted to mean that the udon noodles, soba noodles, ramen noodles or pasta are formed into fried instant noodles. It would have been obvious to make any type of noodles into fried instant noodles, by following the conventional steps of forming noodle strips, steaming and frying, if the taste of fried noodles is desired.

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3. Claims 8-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene et al in view of Gotoh et al as applied to claims 1-7, 11-14 and 16-22 above, and further in view of Miyazaki et al.

Greene et al do not disclose adding an antioxidant in the amount and the type of antioxidant claimed and adding egg powder.

Miyazaki et al disclose a method of making fried instant noodles in which additives such as antioxidant, egg are added. (See col. 5 lines 1-5)

It would have been obvious to add antioxidant and egg because such additives are common in fried instant noodles as shown by Miyazaki et al. Adding additives for their art-recognized function would have been obvious to one skilled in the art. The amount of antioxidant is a result-effective variable and can readily be determined by one skilled in the art; it would have been obvious to add an amount that show effective function as an antioxidant. It would have been obvious to add any known antioxidant and all the antioxidants claimed are well known in the art.

4. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

March 13, 2003


LIEN TRAN
PRIMARY EXAMINER
Group 1700